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SENATE BILL 3255 By
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HOUSE BILL 3300
By Sands

AN ACT to submit to the people of Tennessee a question relating to the calling of a convention for the purpose of altering, reforming, or abolishing the present Constitution of Tennessee with respect to Article II, Section 3, relative to terms of members of the general assembly; Article II, 28, relative to taxation; Article VI, Section 5, relative to the attorney general and reporter, Article VI, Section 13, relative to clerks of courts and clerks and masters; Article XI, Section 5, relative to lotteries; and Article XI, Section 9, relative to consolidation of municipal and county functions; to provide for an election to determine the will of the people with respect to such question; to provide for the holding of a convention if the people approve the proposal and call a convention; to provide for the election of convention delegates; to fix their compensation and allowances; to provide for an election to submit the recommendations of the convention to the people for their approval; and to provide for the payment of the expenses of holding the elections and the convention.

WHEREAS, Article XI, Section 3, of the Constitution of Tennessee provides:

The legislature shall have the right by law to submit to the people, at any general election, the question of calling a convention to alter, reform, or abolish this constitution, or to alter, reform, or abolish any specified part or parts of it; and when, upon such submission, a majority of all the voters voting upon the proposal submitted shall approve the proposal to call a convention, the delegates to such convention shall be chosen at

the next general election and the convention shall assemble for the consideration of such proposals as shall have received a favorable vote in said election, in such mode and manner as shall be prescribed; and

WHEREAS, the legislature considers it to be in the public interest to submit to the people of Tennessee the question of whether or not the present Constitution of Tennessee shall be altered, reformed, and abolished only in certain particular parts, sections, or additions, as may be determined by a convention whose authority would be limited by vote of the people to the consideration of altering, reforming, or abolishing only those parts or sections of the constitution to which the suggested reforms would, if adopted, apply, including any additional provisions relating to such matters which might be required; and whose actions in such matters shall be subject to ratification by the people, in whole or in part, the legislature acting merely as the designated agency to enable the people of Tennessee to determine the question of whether or not such a limited convention should be held; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1.

(a) In order to ascertain the will of the people with respect to whether or not a limited constitutional convention should be called, there shall be submitted to the people of the state at the regular November election to be held on Tuesday, November 2, 2004, under the general election laws of the state in the several counties, the following question, which shall be printed in full on each ballot or voting machine, in words and figures substantially as follows:

CONSTITUTIONAL REFERENDUM

Question: Shall a convention be held to alter, reform, or abolish the following parts and subject matter of the present Constitution of Tennessee, the convention to be limited to consideration of and action upon the parts and subject matter included in this act and whose actions with respect thereto become effective only after the amendments

proposed by the convention are separately submitted to and ratified by a vote of the people?

Article II, Section 3, relative to terms of members of the general assembly;

Article II, Section 28 relative to taxation;

Article VI, Section 5, relative to the attorney general and reporter;

Article VI, Section 13, relative to clerks of courts and clerks and masters;

Article XI, Section 5, relative to lotteries;

Article XI, Section 9, relative to consolidation of municipal and county functions;

_____FOR THE CONVENTION

_____AGAINST THE CONVENTION

Voters will indicate their choice by placing a cross mark (x) opposite one or the other of the above expressions.

(b) The proper officers in all counties shall immediately after the election make a return to the secretary of state of the number of votes cast in their respective counties "For the Convention" and the number of votes cast "Against the Convention", and after comparison of the returns by the secretary of state and the attorney general and reporter, the governor shall, by proclamation, announce the results.

(c) If the people approve the question and thereby authorize the convention, then delegates shall be elected at the regular August election to be held on Thursday, August 3, 2006, under the general election laws of the state in the several counties. There shall be sixty-six (66) delegates, with two (2) delegates to be elected at-large by the qualified voters of each state senate district from which members are elected to the senate of the Tennessee general assembly.

(d) Any person who is at least twenty-one (21) years of age, a citizen of the United States, and a citizen of Tennessee for three (3) years and a resident of the

district for at least one year may become a candidate for delegate to the convention upon filing with the county election commission of the county of residence a nominating petition containing not less than twenty-five (25) names of legally qualified voters of the district. In the case of a candidate from a state senatorial district comprising more than one county, only one qualifying petition need be filed by the candidate, and that in the candidate's home county, with a certified copy thereof filed with the election commission of each of the other counties in the state senatorial district.

Notwithstanding any provision of law to the contrary, every person desiring to become a delegate to the convention shall qualify by filing a qualifying petition or petitions by 12:00 o'clock noon, prevailing time, on Friday, March 31, 2006. The names of candidates for the delegates to the convention shall be placed on the official ballot alphabetically without reference to political affiliation. Each voter shall cast a ballot for two (2) delegates from the voter's senatorial district. The two (2) candidates from each state senatorial district who receive the greatest number of votes shall be the delegate from the senatorial district.

The returns from the various counties shall be certified to the secretary of state and canvassed by the secretary of state, the governor and the attorney general and reporter in the same manner and form as the returns are required to be certified from the election in which the people vote for and against the call of the convention and the governor shall, by proclamation, announce the names of those elected as delegates to the convention. Delegates to the convention, elected and certified, shall receive a certificate of election signed by the governor and attested by the secretary of state under the great seal of the state.

(e) The delegates elected to the convention shall assemble in the chamber of the house of representatives at Nashville at 12:00 o'clock noon on Tuesday, September 5, 2006, and organize by electing one of their members as president, another as secretary,

and by electing such other officers as they consider necessary. If a majority of the delegates are not present on that date, then those present shall adjourn from day to day until a majority appears, when the convention shall be organized. The convention when organized may adopt its own rules of procedure and employ such clerks, stenographers, reporters, sergeants-at-arms, and other assistants as the convention considers necessary and fix the amount of their compensation.

The compensation of the delegates to the convention shall be a per diem allowance and mileage allowance in such amounts as may prevail, during the time the convention meets, for members of the general assembly, which shall be paid by the state in the same manner that members of the general assembly are paid, upon certification by the president and secretary of the convention. In case there shall be a vacancy in the membership of the convention, it shall be filled by election of the legislative body of the county of residence of the delegate whose seat becomes vacant.

(f) It is the duty of the secretary of state to make publication in at least one general circulation newspaper published in each county of the fact that a constitutional convention election is to be held in the state on Tuesday, November 2, 2004. Any county not having a general circulation newspaper shall be considered to have been notified by publication in the newspaper published in counties immediately adjacent thereto. The secretary of state shall also certify to the various election commissioners of the different counties the form for the ballot with reference to the constitutional convention election agreeable to the terms of this section and furnish the election commissioners with any other printed information pertaining to the election that is material or necessary. If the people vote in favor of the convention, then it is the duty of the secretary of state to issue a call for the election of delegates to the convention. The election shall be held in the various counties on Thursday, August 3, 2006, and the secretary of state shall certify to the various county election commissioners the form of

the ballot to be used in the election of delegates. All ballots used in the 2004 regular November election shall include the above question as to holding the limited constitutional convention, and the ballots used in the 2006 regular August election shall include the names of the candidates for delegates to such convention, if such convention is approved.

(g) The final action of the convention with respect to the alteration of Article II, Section 3, relative to terms of members of the general assembly; Article II, 28, relative to taxation; Article VI, Section 5, relative to the attorney general and reporter, Article VI, Section 13, relative to clerks of courts and clerks and masters; Article XI, Section 5, relative to lotteries; or Article XI, Section 9, relative to consolidation of municipal and county functions shall be duly certified by the president and the secretary of the convention and the original certified copy shall be transmitted to the secretary of state.

(h) Any amendment to Article II, Section 3, relative to terms of members of the general assembly; Article II, 28, relative to taxation; Article VI, Section 5, relative to the attorney general and reporter, Article VI, Section 13, relative to clerks of courts and clerks and masters; Article XI, Section 5, relative to lotteries; and Article XI, Section 9, relative to consolidation of municipal and county functions; adopted by the convention shall be submitted to the voters of the state for ratification or rejection at an election to be held in such manner and on such date after the final adjournment of the convention as may be fixed and determined by the convention. The official ballot to be used in any such election shall be arranged so that the voter can vote separately for the ratification or rejection of each and every amendment. Any election so held shall be held under the general election laws of the state. When the election to ratify or reject any amendment to the constitution has been held, the various county election commissioners shall certify the results thereof in each county to the secretary of state, who, together with the governor and attorney general and reporter, shall canvass the returns and the governor

shall issue a proclamation showing the results of the election on the ratification or rejection of the amendments. All amendments ratified and approved in the election held for that purpose shall be proclaimed by the governor as a part of the constitution of the state and such proclamation shall be filed in the office of the secretary of state.

(i) All expenses in connection with the holding of any of the elections authorized by this section shall be paid by the commissioner of finance and administration on warrant drawn upon the treasurer upon certification by the secretary of state to the correctness of each account. No compensation shall be paid by the state to the various county election commissioners for their services or for rental space or quarters in the various counties for places for holding any elections herein authorized.

(j) Notwithstanding any provision of law to the contrary:

(1) Every person acting as a lobbyist at the constitutional convention shall be subject to the provisions of Title 3, Chapter 6, as if the convention constitutes an annual session of the general assembly;

(2) Every person serving as a delegate to, or an employee of, the constitutional convention shall be subject to the provisions of Title 2, Chapter 10, Part 1, as if the convention constitutes an annual session of the general assembly and such person is serving as a member or employee of the general assembly; and

(3) Every person serving as a delegate to, or an employee of, the constitutional convention (as well as such person's immediate family), shall be subject to the provisions of §3-6-108, as if the convention constitutes an annual session of the general assembly and such person is serving as a member or employee of the general assembly.

Section 2. The provisions of this act shall take effect upon becoming a law, the public welfare requiring it.